IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

MACA.No. 2219 of 2006(C)

OPMV.353/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
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APPELLANTS/ PETITIONERS IN OP (MV).
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1. **KHAIRUNISA, W/O.LATE NAVABJAN,**
   NADUVIL VEEDU, PALLICHAL ROAD,
   THOPPUMPADY, COCHIN-5.

2. **N.N.AMEERJAN, S/O.LATE NAVAJJAN,**
   -DO- -DO-.

3. **N.N.ANITHA D/O.LATE NAVABJAN,**
   -D0- -DO-.

BY ADV. SRI.VIVEK VARGHESE P.J.

RESPONDENTS: RESPONDENTS IN OP(MV).
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1. **K.A.KUTTAPPAN, S/O.AYYAPPAN,**
   KANAMPURAM HOUSE,
   PAZHANGANAD, KIZHAKKAMBALAM P.O.

2. **C.S. HARILAL @ HARI, S/O.SATHYAPALAN,**
   CHIRAYAIL HOUSE, KOMALAPURAM VILLAGE,
   AMABALAPPUZHA TALUK.

3. **THE ORIENTAL INSURANCE CO. LTD,**
   REP. BY ITS REGIONAL MANAGER, COCHIN-35.

4. **KHALIMBAI W/O.LATE AHAMMED KHAN,**
   KANNADAYAM, VADAKKEVILA, KOLLAM-10.

BY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 09/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 2219 OF 2006

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Dated this the 9th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Ernakulam in O.P.(MV) 353/99. One Navaabjan died in a road accident leaving behind his widow and two children. According to the claimants he was a salesman having a monthly income of Rs.5,000/-. The Tribunal found that there is evidence to establish the income of Rs.5,000/-. So, took the income at Rs.2,400/- and awarded a compensation of Rs.2,79,600/- in toto. It is against that decision the present appeal is filed.

2. The learned counsel for the appellant would contend hat the Tribunal has erred in taking the multiplicand in this case. According to the claimants there is no evidence to show that the deceased was having a monthly income of Rs.5,000/-. Except for the production of a certificate alleged to be issued by the partner of a business, nobody has been examined to prove the said

document. Even the claimant did not mount to the box. In the absence of any materials, the Tribunal had taken a reasonable income of Rs.2,400/-, deducted 1/3rd for the personal expenses and considering the age of the widow as 45 applied a multiplier of 13 and awarded the dependency compensation at Rs.2,49,600/-. The Tribunal has also awarded reasonable compensation for loss of love and affection, loss of consortium, pain sufferings and also for transport and funeral expenses. The Tribunal has assessed the compensation in the correct perspective and had awarded a just and reasonable compensation. Therefore, the appeal lacks merit and it is dismissed.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

ul/-